



Human Resources
Development Canada

Développement des
ressources humaines Canada

SOCIAL SECURITY CONVENTION

SUMMARY

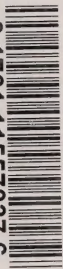
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Canada and Luxembourg

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INCOME
SECURITY PROGRAMS

Canada

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**SOCIAL SECURITY
CONVENTION
SUMMARY**

**Canada
and
Luxembourg**

**INCOME
SECURITY PROGRAMS**

October 1995




Foreword

The Convention on Social Security between Canada and Luxembourg was signed on May 22, 1986, and came into force on April 1, 1990. A Protocol to the Convention was signed on February 6, 1992 and came into force on January 1, 1994.

This summary describes in general terms how the Convention may help individuals qualify for Canadian or Luxembourg benefits. It is intended for persons residing in Canada.

It should be noted that, in addition to the entitlement conditions for benefits outlined in this summary, other conditions may be stipulated in the social security laws of either country. Further information about the conditions for entitlement to Canadian benefits and how they affect a particular case may be obtained from any Client Service Centre of Income Security Programs Branch. The telephone number and address of the nearest Centre can be found in the federal government listing of the telephone directory under "Human Resources Development Canada".

Only the Department of Social Security and the Insurance-Pension institutions in Luxembourg can provide specific information on the entitlement conditions for Luxembourg benefits and how they affect a particular case. To avoid delays or loss of benefits, persons who think they may be eligible for one of the Luxembourg benefits described in this summary should submit an application. Information on how to apply is given on the last page of this summary.



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Introduction

The Convention on Social Security between Canada and Luxembourg coordinates the Canadian and Luxembourg programs which protect individuals in the event of old age, retirement, disability or death. It has three basic objectives:

- (1) to ease or eliminate restrictions on the payment of social security benefits abroad;
- (2) to eliminate situations in which a worker may have to contribute to the social security programs of both countries for the same work;
- (3) to assist migrants in qualifying for benefits based on the periods they have lived or worked in each country.

The Canadian benefits included in the Convention are those paid under the Old Age Security program and the Canada Pension Plan. These benefits are described on pages 1 to 8.

The Luxembourg benefits included in the Convention are the old age, invalidity and survivors' benefits payable under the Insurance-Pension Scheme of Luxembourg. These benefits are described on pages 8 to 14.

Canadian Old Age Security Benefits

Canada's *Old Age Security Act* provides for three benefits: the basic pension, the Guaranteed Income Supplement and the Spouse's Allowance.

The Old Age Security Pension

The basic Old Age Security pension is a monthly benefit paid to persons who have reached age 65 and who meet the residence requirements. For receipt of the pension in Canada, this requirement is a minimum of 10 years of residence in Canada after reaching age 18. For indefinite receipt of the pension abroad (including the case of a person applying for a pension while residing abroad), the requirement is a minimum of 20 years of residence in Canada after reaching age 18. A person who is receiving a pension in Canada but who has not completed 20 years of residence may, on leaving Canada, receive the pension only for the month of departure and for the six following months.

Through the Convention and the Protocol, a person who has at least one year of residence in Canada after reaching age 18, but not residence of sufficient length to be entitled to an Old Age Security pension, may use periods of residence in Luxembourg after reaching age 18 or periods of contributions under the Luxembourg legislation to satisfy the entitlement conditions for a pension. For example, a person who has resided in Canada for nine years after reaching age 18 may qualify for a pension payable in Canada if he or she has resided or contributed in Luxembourg for at least one year after reaching age 18.

As well, through the Convention and the Protocol, a person who has at least one year of residence in Canada after reaching age 18 but not the 20 years required for receipt of the Old Age Security pension abroad on an indefinite basis, may use periods of residence in Luxembourg after reaching age 18 or periods of contributions under the Luxembourg legislation to satisfy the 20-year condition.

The Guaranteed Income Supplement

The Guaranteed Income Supplement is a monthly benefit payable in addition to an Old Age Security pension to a beneficiary who has little or no income other than the basic Old Age Security pension. The supplement is essentially payable only to residents of Canada. However, if a recipient leaves Canada, it may be paid abroad for the month of departure and for the six following months.

The Spouse's Allowance

The Spouse's Allowance is a monthly benefit payable to the 60- to 64-year-old spouse of a beneficiary of the Guaranteed Income Supplement and to a widowed person in the same age group who has little or no personal income. At age 65, the Spouse's Allowance is replaced by the Old Age Security pension. At least 10 years of residence in Canada after reaching age 18 are required to qualify for a Spouse's Allowance. Like the Guaranteed Income Supplement, the Spouse's Allowance is essentially payable only in Canada. However, if a recipient leaves Canada, it may be paid abroad for the month of departure and for the six following months.

Through the Convention and the Protocol, a person who has at least one year of residence in Canada after reaching age 18, but not the 10 years required to be entitled to a Spouse's Allowance, may use periods of residence in Luxembourg after reaching age 18 or periods of contributions under the Luxembourg legislation to satisfy the 10-year condition.

Calculating Old Age Security Benefits under the Convention

The amount of the Old Age Security pension payable under the Convention is equal to 1/40th of a full pension for each complete year of residence in Canada after reaching age 18. It is calculated in the same way as is a partial pension under the Old Age Security Act if eligibility is established without recourse to an agreement or a convention. Where a person receiving an Old Age Security pension in Canada does not have the 20 years required to receive the pension abroad, the Convention allows for years of residence in Luxembourg to be added to years of residence in Canada. The amount of the pension is calculated on the basis of the years of residence in Canada after age 18 and up to the date the pension was first approved.

The amount of the Spouse's Allowance is determined by the couple's income or, in the case of a widowed person, by the personal income of the beneficiary.

Payment of Old Age Security Benefits

Old Age Security benefits are paid by Human Resources Development Canada in Canadian funds directly to the beneficiary, whether he or she lives in Canada or abroad.

Canada Pension Plan Benefits

The Canada Pension Plan provides benefits in the event of retirement, disability or death of a contributor. The Plan, which began operation in 1966, covers virtually all persons engaged in paid employment or self-employment in Canada, except in Quebec where a similar plan, the Quebec Pension Plan, is in effect.

Canada Pension Plan benefits may be paid anywhere in the world, without any restriction whatsoever.

The Canada Pension Plan Retirement Pension

A retirement pension is a monthly benefit payable to a contributor who has reached retirement age and who has made contributions to the Plan in at least one year.

The normal retirement age is 65. A person who has reached this age may receive a retirement pension even if he or she is still working. A retirement pension may also be paid to a contributor aged between 60 and 64 who has completely ceased paid employment or whose employment earnings, at an annual rate, do not exceed the amount of the maximum annual retirement pension payable to a person whose pension begins at age 65.

If an individual starts to receive a retirement pension before age 65, the pension is reduced by 0.5 percent for each month between the month the pension begins and the month of the person's 65th birthday. The reduction is permanent. Conversely, if the pension starts after the individual reaches age 65, it is increased in a comparable manner.

Canada Pension Plan Disability Benefits

A disability pension is a monthly benefit payable to a contributor who is disabled and who has made contributions to the Plan in at least five of the ten or in two of the three calendar years immediately preceding disablement.

A contributor is considered to be disabled if he or she has a physical or mental disability that is both severe and prolonged. "Severe" means that the individual cannot regularly pursue any substantially gainful occupation. "Prolonged" means that the disability is likely to be long continued and of indefinite duration, or is likely to result in death.

A monthly child's benefit is also payable for each dependent child of a disabled contributor. The child must be under age 18, or age 18 or older but under age 25 and in full-time attendance at school or university.

Through the Convention, a person who has some periods of contributions to the Canada Pension Plan, but who has not made sufficient contributions in the years immediately preceding disablement, may use periods during which contributions have been paid or credited under the Luxembourg Insurance-Pension Scheme to satisfy the conditions for entitlement to a Canada Pension Plan disability benefit.

Canada Pension Plan Survivors' Benefits

A surviving spouse's pension is a monthly benefit payable to the surviving spouse of a deceased contributor who had made contributions to the Plan for a minimum period (between three and ten calendar years, depending on the age of the contributor at

the time of death). Surviving spouse's pensions are payable on the same conditions to widows and widowers. They are payable even if the surviving spouse remarries.

The "surviving spouse of the contributor" is the person of the opposite sex living with the contributor in a conjugal relationship (whether or not there was a marriage) at the time of death or, if there is no such person, the legal spouse (even if that legal spouse was not living with the contributor at the time of death). If the surviving spouse and deceased contributor were not legally married, they must have lived together for at least one year.

To qualify for a benefit, a surviving spouse who is under age 35 at the time of the contributor's death must be caring for a child of the contributor or must be disabled as defined by the Canada Pension Plan.

A monthly orphan's benefit is also payable for each dependent child of the deceased contributor. The child must be under age 18, or age 18 or older but under age 25 and in full-time attendance at school or university.

A death benefit is payable to the estate of a deceased contributor who had made contributions to the Plan for a minimum period (between three and ten calendar years, depending on his or her age at the time of death).

Through the Convention, when a spouse or child is not entitled to a survivor's benefit because the deceased had not completed sufficient periods of contributions to the Canada Pension Plan, periods during which the deceased had paid or been credited with contributions under the Luxembourg Insurance-Pension Scheme may be used to satisfy the conditions for entitlement to a Canada Pension Plan survivor's benefit.

Calculating Canada Pension Plan Benefits under the Convention

The retirement pension, the surviving spouse's pension payable at age 65 and the death benefit are based on the earnings of the contributor while under the Plan and on the number of years of contributions to the Plan. The disability pension and the surviving spouse's pension payable before age 65 are composed of two parts: a benefit related to the earnings of the contributor and a flat-rate benefit. Benefits paid on behalf of a contributor's children are all flat-rate.

If entitlement to a Canada Pension Plan benefit is established under the Convention, the flat-rate component is calculated in proportion to the periods during which contributions were made to the Plan relative to the minimum period of contributions required for entitlement to the benefit. The earnings-related component is calculated in the same way as is a benefit which is paid without recourse to the Convention.

Payment of Canada Pension Plan Benefits

Canada Pension Plan benefits are paid by Human Resources Development Canada in Canadian funds directly to the beneficiary, whether he or she lives in Canada or abroad.

Luxembourg Benefits Included in the Convention

Old Age Pension

An Old age pension is payable at age 65 to any insured person who has been credited with at least 120 months of insurance to the Luxembourg Insurance-Pension Scheme. Early old age pension may be paid as early as age 60 to any insured person who has been credited with at least 480 months of insurance or assimilated periods or at age 57 to any insured person who has 480 months of compulsory insurance.

A beneficiary of an early old age pension can only engage in occasional and insignificant remunerated activity ie. a continued or temporary activity providing an annual income of less than one third of the monthly rate for the minimum social wage. If the earnings from that activity are above the threshold mentioned above, the pension is reduced by half.

Under the Convention and the Protocol, a person who has contributed for at least one year under the Luxembourg Insurance-Pension Scheme but who has not contributed for the 120 months necessary for entitlement to an old age pension, or who has not fulfilled the 480-month condition necessary for entitlement to an early old age pension at age 60, may use periods of residence in Canada after the age of 18 or periods of contributions to the Canada Pension Plan to meet the conditions of insurance. A person who has contributed for at least one year to the Luxembourg Insurance-Pension Scheme may use periods or residence in Canada after the age of 18 and before January 1, 1966 or periods of contributions to the Canada

Pension Plan to fulfil the 480-month requirement for entitlement to early old age pension at age 57.

Disability Pension

Disability pension is paid to any insured person affected by a disability preventing him or her from continuing in the last job held, or any other occupation suited to his or her strength and aptitudes. In addition, the insured person must have at least 12 months of insurance during the three years preceding the date of disability as set by the examining physician or the date of expiration of paid sick benefits. There is no insurance condition required if the disability of the insured is the result of a work-related accident or illness occurring while he or she was covered by the Scheme.

Disability pension is granted provided the individual agrees not to perform any non-salaried work. The insured person must participate until the age of 50 in such rehabilitation or retraining measures as may be prescribed by the appropriate pension fund as proposed by the social security medical control.

Disability pension starts with the first day of established disability.

All disability pensions are converted to old age pensions when the individual reaches age 65.

Through the Convention, an individual who has been credited with at least one year of insurance to the Luxembourg Insurance Pension Scheme, but who has not contributed for a minimum of 12 months in the last three years, may use periods of contributions to the Canada Pension Plan and periods of residence in Canada prior to January 1, 1966 to satisfy the insurance condition.

Survivors' Pensions

■ **Surviving Spouse's Pension**

The surviving spouse of an old age or disability pension beneficiary, or any insured person who at the time of death has 12 months of insurance in the last three years prior to death, is entitled to a survivor's pension. There is no insurance condition if the death of the insured is due to occupational disease or accident occurring while covered by the Scheme.

In the event of divorce, the former spouse is entitled to a survivor's pension if he or she has not entered into another marriage before the death of the divorced spouse. The amount of the survivor's pension shall, in such case, be determined according to the periods of insurance during the marriage as compared to the total duration of insurance.

When there is no surviving spouse, entitlement to a survivor's pension may be payable to certain other relatives who have maintained a household with the deceased.

■ **Orphans' Pension**

A survivor's pension is paid to an orphan after the death of either parent. Orphan's benefits are paid until the age of 18, or to 27 if the orphan is unable to support him or herself because of studies geared to a future profession or trade.

Survivors' benefits are effective on the date of the insured person's death, or the first month following if the deceased was receiving a disability or old age pension.

Through the Convention, when a surviving spouse or child is not entitled to survivors' benefits under the Luxembourg Insurance-Pension Scheme because the deceased had not contributed for 12 months in the last three years

preceding death, periods during which the deceased had contributed to the Canada Pension Plan and periods of residence in Canada prior to January 1, 1966 may be used to fulfil eligibility conditions for a survivor's pension. In all cases, however, the deceased must have made contributions for at least one year to the Luxembourg Insurance-Pension Scheme.

Calculating Luxembourg Benefits under the Convention

If entitlement to old age, disability or survivors' benefits is established under the Convention, the amount of the benefit is determined in keeping with the insurance periods credited in Luxembourg as compared to the total duration of the insurance periods in the two countries.

If entitlement to old age, disability or survivors' benefits is established without the provisions of the Convention, the amount of the benefit is determined in proportion to the Luxembourg legislation alone and following the condition described in the preceding paragraph. The amount resulting in the highest amount will be the one paid to the beneficiary.

Payment of Luxembourg Benefits

Luxembourg benefits are paid by Insurance-Pension institutions of Luxembourg, directly to the recipient, whether he or she lives in Luxembourg or abroad.

Determining the Applicable Legislation

Without a Convention, a person might be required to contribute both to the Canada Pension Plan and to the Insurance-Pension Scheme of Luxembourg for the same work. The Convention on Social Security between Canada and Luxembourg eliminates such situations of “dual coverage”.

General Rule

Under the Convention, an employee is normally subject only to the legislation of the country in which he or she works and is, therefore, exempt from contributions under the legislation of the other country in respect of the same work.

Temporary Postings in Luxembourg

An exception to the general rule applies in the case of a “detached worker” (e.g. an employee who normally works in Canada and is covered under the Canada Pension Plan in respect of that work, and who is sent by his or her employer to work in Luxembourg on a temporary basis). Under the Convention, such a worker is able to continue his or her coverage under the Canada Pension Plan for a period of 24 months and, while this coverage remains in effect, is exempt from social security contributions to the Luxembourg system in respect of the same work.

Government Employment

Another exception to the general rule applies to persons in government employment for one of the countries performing their duties in the other country. They are normally subject to the social security laws of the latter country only if they are citizens or permanent residents of that country.

Residence under the Old Age Security Act

In addition to the coverage provisions just described, the Convention between Canada and Luxembourg contains another provision which ensures that a person who is covered under the Canada or Quebec Pension Plan while residing in Luxembourg is also covered by the *Old Age Security Act* which is usually based only on residence in Canada. Thus, during that period, complete coverage is afforded under Canadian legislation. Conversely, a person who is residing and working in Canada and is subject to the social security legislation of Luxembourg does not have those periods considered as periods of residence for purposes of the *Old Age Security Act*.

More Information Concerning Contributions

Revenue Canada administers the provisions of the Canada Pension Plan relating to the making of contributions. Questions regarding the obligation of an employee, an employer or a self-employed person to contribute to the Canada Pension Plan as a result of the Canada/Luxembourg Convention, as well as questions concerning continued coverage under the Plan while temporarily posted to work in Luxembourg, should be addressed to:

Revenue Canada
Ottawa District Office
OTTAWA, Ontario
K1A 0L9

Tel: (613) 598-2408

Applying for Benefits under the Convention

Additional information about the Convention and assistance in applying for any of the Canadian or Luxembourg benefits described in this summary are available from any Client Service Centre of Income Security Programs Branch. The telephone number and address of the nearest Centre can be found in the federal government listing of the telephone directory under Human Resources Development Canada. Alternatively, inquiries may be addressed to:

Director
International Operations
Income Security Programs Branch
Human Resources Development Canada
OTTAWA, Ontario
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Tel: (613) 957-1954

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